

A

REVIEW

OF THE

STATE

OF THE

ENGLISH NATION.

Tuesday, March, 5. 1706.

I Hinted in my last, how the Severities of our present Treating of Debtors, was one way of Forcing Men upon Desperate Practices, and not Leading but Driving Men into Temptation, and thus that Law makes Knaves of Honest Men; *Occasion, they say, makes a Thief, and I say, Extremity makes a Knave*; the Prudent part therefore of a Mild and just Government, is always Govern'd by this known Maxim, to *make no body Desperate*.

I am of the Opinion, that we have generally Mistaken Notions in the World about Honesty, and those that have never had occasion to try their Integrity, are too apt to Censure those that have; I believe there are Occasions, in which the Necessity is too hard, even for Humane Nature it self, tho' back'd with Reason, and Fortify'd with

Religion; how else have we known Men driven to the Necessity of Eating one another, and very Solemnly say Grace, or Crave a Blessing upon the Horrid Repast? Were the Honestest Man in the World, brought to the Necessity of Starving, he would not only Borrow when he could not Pay, but Steal or do any thing.

You are an Honest Man, you say! Pray, Sir, was you ever Try'd? Have you seen your self, Wife, and Dear Children, ready to Perish for Food, and having your Neighbours Loaf in your Cupboard, or his Money in your Hands, for 'tis all one, refus'd to touch it, and let them Starve rather than Taste it, because it was none of your own? I tell you, Sir, you would not Eat your Neighbours Bread only, but your Neighbour himself, rather than Starve, and your Honesty would

would all Shipwrack in the Storm of Necessity ——— *Agar* was a Wise Man, when he Prays, *give me not Poverty, lest I Steal*; to me the Words very plainly Imply, *Lord ! keep me from Poverty, for I shall certainly be a Thief*; and I firmly believe, there never was a Man so Honest, but would *Steal*, before he would *Starve*, and if he did not, it was want of Opportunity.

But this is by the by, I shall Treat this more at large in another Place; it only serves here, to Illustrate the present Arguments; Laws to Treat Insolvent Trademen, in the Manner ~~above~~ do, are the Foundation of our General Complaint; where there is no Mercy shown a Debtor, it of Course makes him Desperate, and fills his Mouth with too many Arguments, to Encourage him to the Defrauding of his Creditors, even in his own Rational and necessary Defence.

Nor are their too Plausible Pretences easie to be Answer'd, viz, That *self-Preservation* is the first Law, that they are reduc'd to that Necessity by Rogues, that have Cheated them, and not by their own Errors; and if the Laws and Creditors are so Unmerciful, their Anger, like that of *Jacob's* Sons, is Cursed, because it is fierce, and their Wrath because it is Cruel: it is Unjust, and becomes a Violence they ought to resist. That Nature Dictates to them, they ought to keep themselves out of Gaol; to these they add *Reason and Scripture*, That what is unavoidable, as their Disaster has been, cannot be Criminal; That they are Unhappy but not Unfair; That if the Creditor refuses the utmost a Debtor can do, the Debtor Discharges the Honest Man, and the Creditor becomes the Criminal; that the Crime of a Debtor cannot be Esteem'd Felony, and therefore ought not to be Punish'd with Death, especially with the most Cruel and intolerable Torments, such as Starving, Hunger, unsufferable Cold and Languishing, Irretrievable Prison; that the Honest Debtor is a Man of Misfortune, not Crime, and to such Compassion should be shewn not Cruelty; he should be Pity'd not Punish'd: That, the Scripture is Express'd against such

Barbarous Treatment, and prompts Men to Commiserate their Fellow Creatures in such Cases; that a Man ought not to be Starv'd in the worst Cases; and the Frailty of Humane Nature ought to be so far consider'd, that even the Thief, that is driven to be so, for meer Importunate Hunger, shou'd not be Punish'd; whereia the Scripture, tho' it does not justify the Theft, requires Men to consider, that were they driven to the like Extremities, Nature has the same Infirmities in all, and would Succumb and yield under the too strong Temptation of Irresistible Famine: Again, they have the Scripture to Plead in the Article of Debt; he who has been forgiven, or that expects it, by his Heavenly Father, the vast Debt of Ten Thousand Talents, in Crimes and Offences, should consider that Bounty, when he takes his Neighbour by the Throat, with a *Pay me that thou Owest*, for the Trifling Trespass of a few Pence; Common Circumstances are also to be Commiserated; if the Debtor be absolutely Unable to Pay, the Cruelty is Expressly forbidden in Scripture; *Why shouldst thou take his Bed from under him?* 'Tis a strong Negative; *Why should you be so Barbarous?* The Man has nothing to Pay, nothing but his Bed, on which he should rest in his Affliction. His Bed! You would not be such a Brute, to take away that from him; *Why shou'd you be so Inhumane? Thou shalt not take his Bed from under him.*

These Arguings have too much Reason in them to be resisted, especially when a Man has the prevailing Cries of a Distress'd Family, and Innocent Children, to prompt him to think of his Case, and preserve something for them, to keep them from the last Extremities of Misery.

And all this would be prevented by a little Lenity, a little Christian Compassion in Men or Governments towards such Debtors only, who being reduc'd to the Necessity of Breaking, would be just to the World if they might, and Honestly deliver up their Effects, if they were not driven to the Necessity of being Knaves by Unreasonable Terrors.

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INnumerable are the Hardships and Distresses, that this Miserable Nation is full of, on the Account of the Act of Parliament, for Perpetual Imprisonment of Debtors; but lest the Present Age should question the Severity, and Posterity should think it a Romance, I cannot but think an Instance or two very useful in this Case; and the following I take from a Letter, left at the Printers of this Paper, by one of the Officers of the Prison at Newgate.

I own I know not the Person, but as Vouchers may be had so near, and the Name of the Man is set at length, any Man may go there to be satisfy'd; the Letter is as follows.

SIR,

Feb. 19. 1706.

I Cannot but crave leave to trouble you with the Case of a Gentleman now in Newgate, which seems to me both in its Nature and Circumstances so very hard, that nothing can shew the barbarous Effects of what you most properly call the murderous Warrant Act, more, and of which therefore you may make what use, on occasion, you think fit: The Case thus:

One Alexander Carleton, a Gentleman by Birth and Education, marrying the Widow of one B. Master Smith to his late Majesty K. William, who owing a great Deal of Money, as he had a great Deal due to him on the civil List unpaid to this Hour, his Creditors fall furiously on Mr. Carleton, and suing him to Execution without Mercy, not only seiz'd and sold all his Household Goods at an under Rate to his great Detriment, but extended his real Estate, whereof they are still in actual Possession. Mr. Carleton thus hazarded and strip'd of all for his Wives Debts, is sued in his Person upon a Bond of 240 l. penalty, given by the said B. in his Life time, to a Gentleman under Officer, belonging then to the Pay-master General's Office, who together

with it he had given an Assignment on and l. due to the and generally payable in that Office, as, further Security, Judgment was obtain'd against Carleton in this suit in the Court of Common-Pleas at Westminster, upon which he brings his Writ of Error as well for other reasons, as in hopes to gain time to recover what was due to the said B. and pay his just Debts fairly and honestly out of it; and being oblig'd to put in Bail to abide by whatever should be done on the said Writ of Error, he put in one David Darnel, at the same time, giving Darnel a Bond of 500 l. to save him harmless in the Matter; some time after, this, Darnel himself was taken up for his own Debts, and came off by the Act of Insolvent Debtors; Carleton's Hardships and Misfortunes coming so thick and so fast upon him, and having no Effects of the said B. in his Hands, and all his own being gone, as is before set forth, was unable to pursue his said Writ of Error, or sue for any relief in Equity from such Pressures; upon which the Judgment given in the Common Pleas, against him, was Affirmed, and thereupon a Scire facias issued out against the said Darnel his Bail, to shew Cause why the Debt should not be paid; to which Scire facias, Darnel appeared by his Attorney, and taking Copy thereof, goes to the Gentleman to whom the Debt was and is still due, and shew'd him his Duplicate, upon which the Gentleman never troubled him more in the matter: Since that the said Darnel gets himself taken up and lieth in her Majesties Foot Guards, as a Vagabond pursuant to the Vagabond Act, and is there at this time in Colonel Vincent's Company; Carleton to discharge all his Bails, surrenders himself to the Queen's Bench, where the said Darnel charges him with a Declaration in Debt for 500 l. on the said Bond given as Counter Security, tho' the said Carleton never had any other Dealing with him, nor ever ow'd him

him a Farthing, than as aforesaid, and often offered him to repay even double what Charges he was at, in seeing an Attorney, and taking out the said Copy, Darnel having never so much as pretended that he paid one Farthing for the Debt, and yet notwithstanding all this, and his being himself in the Circumstances aforesaid, Mr. Carleton having made an End with his other Principal Creditors, and being seen out of the Rules, Darnel takes out a Murd'ring Warrant against him, and thereby takes and commits him to Newgate, the 19th. Instant, tho' he never had any Verdict, or Judgment to Intitle him to the Forfeiture of the said Bond, nor any other Ground or Colour for a Debt, than as aforesaid, which any Body may have from the Gentlemans own Mouth, Adieu. If this be Severe you can tell.

Upon reading this dismal Story, I appeal to any Man, whether this Act does not, as the common Law requires a Court of Equity, require a Court of Mercy, to alleviate the Severity of it.

Here's a Gentleman of good Fortune and Family, whose just Creditors are kind and tender to him, and who would meet with Mercy at the Hands of those really wrong'd by him, unmercifully murder'd but a Man to whom really he is not in Debt.

Nor do I think my self too rash in calling it Murder, since first 'tis plain the Man must die there, if not deliver'd by some Act of Grace, he having no Capacity to pay. 2ly. 'Tis plain there being no just Debt, there is no equitable Cause of this Imprisonment, tho' there is a legal Cause; so that it is Death without a Cause, which is nothing but Murder.

Nor should I be in the wrong, if I suggest, that, generally speaking, a Man is persecuted with more Severity on Debts or Bonds, which are not for real Debts, by which Men are drawn into by Frauds, Wheedles, Circumstances and Nec. sities, than on other Accounts, and this I find true, by too much Experience.

I have another Letter sent me upon this Head, which in it self will shew, to what

Extremities these things will drive Man-kind; I shall only give you the Letter now, and my Answer to it hereafter.

SIR,

I 'Am a Man reduc'd to Ill Circumstances, by no Dishonest Means, but the meer Casualties of the Times, and two or three Unreasonable Creditors, have pursued me to that Extremity, as to take out Dead Warrants against me, by which if I am taken, I am certain to Perish in Misery and Prison, for I have not only nothing to Pay, but not wherewith to subsist, nor any Friends to Assist me — Now, Sir, as I am a Gentleman Born, have had a good Estate, and have not been Bred to Hardships; I am persuaded I shall Dye if I fall in their Hands, and therefore it is much more Eligible, to Dye like a Man, than be Starv'd like a Dog; from which Conclusion, I always go Arm'd, resolving if I am Attack'd by any Body in this Murd'ring Account, never to be Taken, but to Sell my Life as Dear as I can, and Dye with my Sword in my Hand; Pray, your Opinion, whether I may not Lawfully do so; this Law being absolutely Repugnant to the Law of God, and so void in its own Nature."

Your Humble Servant, &c.

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